

### **REMARKS**

Claims 23-66, 68-75, and 77-80 are pending. Claims 23-26, 31-35, 41-47 and 55-80 are allowed. Applicants respectfully request reconsideration of the remaining rejections in view of the following remarks.

#### **Rejections under 35 U.S.C. §112, first paragraph**

Claims 27-30, 36-40 and 48-54 were rejected under 35 U.S.C. §112, first paragraph for failure to comply with the Deposit requirements. Applicants submit the following assurance regarding the availability of the deposit.

Human Genome Sciences, Inc., the assignee of the present application, has deposited biological material under the terms of the Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure with the following International Depository Authority: American Type Culture Collection (ATCC), 10801 University Boulevard, Manassas, Virginia 20110-2209 (present address). The deposit was made on December 1, 1998, accepted by the ATCC, and given ATCC Accession Number 203502. In accordance with M.P.E.P. § 2410.01 and 37 C.F.R. § 1.808, assurance is hereby given that all restrictions on the availability to the public of ATCC Accession Number 203502 will be irrevocably removed upon the grant of a patent based on the instant application, except as permitted under 37 C.F.R. § 1.808(b). A partially redacted copy of the ATCC Deposit Receipt for Accession Number 203502 is enclosed herewith as Exhibit A.

The Examiner has alleged that the deposit contains a mixture of cDNA clones and that the specification does not disclose a repeatable process to obtain the claimed clone from the deposit. This is not accurate. ATCC Deposit No. 203502 contains only DNA plasmid HBMVC21, which corresponds to the BM-HABP protein shown in Figures 4A-B and SEQ ID NO:11.

Applicants respectfully submit that the assurance regarding the availability of the deposit and the clarification of the contents of the deposit overcome this rejection. Applicants therefore request withdrawal of this rejection.

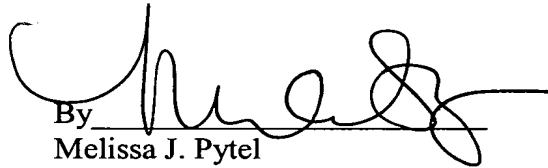
### CONCLUSION

In view of the foregoing remarks, Applicants believe that this application is now in condition for allowance, and an early notice to that effect is urged. The Examiner is invited to call the undersigned at the phone number provided below if any further action by Applicant would expedite the examination of this application.

If there are any fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 08-3425. If a fee is required for an additional extension of time under 37 C.F.R. § 1.136, such an extension is requested and the appropriate fee should also be charged to our Deposit Account.

Dated: April 29, 2004

Respectfully submitted,

By 

Melissa J. Pytel

Registration No.: 41,512  
HUMAN GENOME SCIENCES, INC.  
14200 Shady Grove Road  
Rockville, Maryland 20850  
(301) 610-5764

MJH/MJP/ba